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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 RICHARD EDVALDS,

11 Petitioner,

12 v.

13 DOUG COLE,

14 Respondent.

CASE NO. C11-5589-BHS-JRC

REPORT AND RECOMMENDATION

NOTED FOR: February 3, 2012

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16 This 28 U.S.C. § 2254 habeas corpus petition has been referred to the undersigned
17 Magistrate Judge pursuant to 28 U.S.C. §§ 636(b)(1)(A) and (B) and Local Magistrate Judge
18 Rules MJR 1, MJR 3, and MJR 4. Plaintiff has paid the full five dollar filing fee and is not
19 proceeding in forma pauperis. The Court recommends this petition be dismissed pursuant to Fed.
20 R. Civ. P. 41 (b) for failure to prosecute and failure to follow Court Orders.

21 The procedural history of this action shows that petitioner has failed to follow Court
22 Orders on multiple occasions. He initially filed an incomplete in forma pauperis application and
23 only the first page of a petition (ECF No. 1) The Clerk's Office sent him a letter within four days
24 of filing informing him of the defects in his pleadings (ECF No. 2). He asked for, and received,

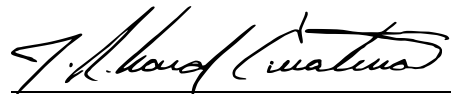
1 an extension of time to cure the initial defects (ECF No. 3,4 and 5). When he still failed to cure
2 the defects the Court entered a Report and Recommendation that in forma pauperis status be
3 denied (ECF No. 7). Only then did petitioner act. He paid the filing fee and the Report and
4 Recommendation was not adopted (ECF No. 10).

5 When the action was referred back to this Court, the Court entered an Order that gave
6 petitioner six weeks to file a habeas corpus petition and service copies (ECF No. 11). Again,
7 petitioner failed to follow the Court's Order. He asked for an additional four weeks to file a
8 petition and service copies that should have been filed six months earlier. His motion for an
9 extension of time has been denied.

10 Six months after this action was opened, the Court is still not in a position to order
11 service of the petition. In fact, no petition is before the Court. Under this set of circumstances the
12 Court recommends dismissal for failure to prosecute and failure to comply with Court Orders.

13 Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have
14 fourteen (14) days from service of this Report to file written objections. See also Fed. R. Civ.
15 P. 6. Failure to file objections will result in a waiver of de novo review by the District Court
16 Judge. See, 28 U.S.C. 636 (b)(1)(C). Accommodating the time limit imposed by Rule 72(b),
17 the clerk is directed to set the matter for consideration on February 3, 2012, as noted in the
18 caption.

19 Dated this 9th day of January, 2012.

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21 J. Richard Creatura
22 United States Magistrate Judge
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